

Unseating of Five Socialists Urged, 7 to 6

Continued from first page

party as a condition for holding office," wrote Pellet and Stitt, "nor the taking of any oath of loyalty as a condition for exercising the right of suffrage, it necessarily follows that the Legislature should not by resolution exclude from membership a duly elected member by reason of his political position in a particular party or group."

Assemblyman Lown in his report, which favors the expulsion of only Claessens, Solomon and Waldman, said that he concurred in the conclusions of the majority report that the Socialist party conducted a disloyal propaganda during the World War and condemned the party for it.

"But I dissent from the view (of the majority report) that the evidence fairly construed shows that the Socialist party is a conspiracy to overthrow the government by force and violence and not a political party," Lown continues. "The Socialist party has been a recognized political party in this state for upward of twenty years."

Opposes Exercise of Force
Assemblyman Evans, one of the Democratic members of the committee for reseating all five, said in his report:

"We do not question the fact that the Assembly has the naked physical power to expel or suspend any member for any reason whatever and that its action is final in the sense that no appeal may be made to any other tribunal. What we urge is that the Assembly must never exercise a power purely physical unless it is likewise backed by a moral force. The Assembly must not expel these Socialists by force. The inquiry is not whether the Assembly has the power, but whether it is wise to use it. The question is solely, Does the legal constitutional power exist in this case?"

"We disqualify Socialists from sitting in our Legislature merely because we abhor their ideas and ideals our democratic government will not long endure. Ours is a government of law, not of men. The government where all shades of opinion and notions must be allowed to live. The minority has a place in our government. The majority cannot exercise its power in conflict with the minority with the prevailing notions of what is or is not loyal, good, proper and desirable."

"Assemblymen Pellet and Stitt, in their report, urging the reseating of all five, said:

"We have no doubt of the absolute power of the Assembly to exclude from membership any member for any reason whatever and that the action of the Assembly is final by reason of the fact that there is no forum which can review its action."

"Because our action is final and because of the serious consequences to the Assembly of the disqualification of the right which the Assembly possesses must be exercised with the greatest care and with due regard to the principles involved."

Socialist Constitution Disapproved
"In view of this long established recognition of the Socialist party as a political party we cannot now say that it is not a political party and by excluding its representatives disfranchise the people of the Socialist party. We disapprove, however, of the provision of the constitution of the Socialist party which calls for candidates for political office to file with the party office a declaration of their views. The proof shows that this provision is a dead letter and that none of the five Assemblymen has been called upon to file or has filed such resignation."

"We, therefore, recommend that any of the five members should be excluded for reasons personal to himself."

No Overt Act by Two
"No overt act has been charged to two of the Assemblymen, except adherence to the principles of the Socialist party. As to the other three the delivery of inflammatory speeches has been proved. These speeches were made in public at a time when the country was engaged in or had just emerged from a war which threatened its very existence; patriotic fervor was at high tide; the espionage act of the United States and the criminal anarchy statute of the State of New York were properly being vigorously enforced."

"None of the Assemblymen under investigation, however, was charged with the breach of either of these laws, and it may safely be assumed that their speeches were not made with the authorities charged with enforcing these laws as a violation thereof. As a matter of fact, the greater part of the proof concerning these speeches was given by witnesses whose purpose in attending the meetings where the speeches were made was to ascertain if there had been any violation of law. A careful analysis of the speeches concerning which evidence was given does not disclose any basis for exclusion."

"Whether the five Assemblymen were loyal must be judged by the record alone. In our opinion, the record is insufficient to justify the exclusion of any of them by reason of disloyalty."

Assemblyman Bloch, who also voted to reseat all five, said in his report:

"Much testimony, oral and written, is before us to show that the Socialist party of America during the World War recognized no duty to support the United States in the part it took in that conflict, and that members of the Socialist party generally, while willing to take advantage of the opportunities offered and protection guaranteed by the United States Constitution and laws, declined and refused to render any service which would sustain the government under which they lived during such a great crisis; and in this respect the attitude of the Socialist party merits the severest condemnation as un-American and unpatriotic. No evidence, however, was produced to show that the attitude of the Socialist party was other than a negative one of withholding aid and support to the United States, rather than a positive one of giving aid and comfort to its enemies."

Assemblyman Blodgett, who also voted for reseating all five, said that "if he erred in his conclusions he erred on the side of constitutional liberties resting in the strength of the sovereign people to maintain itself."

"One of the purposes for which the United States entered the World War," said Blodgett, "as declared by the President in his fourteen points, was to establish the right of nations to determine their own form of government and to fashion their own destinies. The form chosen by Russia may work the ruin of that country; it may be abhorrent in the eyes of the world; but it is theirs and this we must recognize. These men declare they favor this government only for Russia. I cannot find that this is such disloyalty as disqualifies. Free institutions would be only ephemeral if thus easily disturbed. Intemperate speech, untenable theories, false doctrines, foolhardy acts are all incidental to progress and the great people of our country and this state are too strong in their political instinct to permit such weakness to stand. To stamp out such views would not be strength but weakness; to tolerate, would not be weakness, but strength, and the sovereign people, jealous of their freedom, just in their might, inspire us with an abiding faith."

The majority report, a document of 20,000 words, concludes:

"We therefore find that each and every charge made against the five Socialist Assemblymen in the resolution adopted by the Assembly at the opening of the session, and thereby accepted as the basis for the inquiry into the qualifications of these five men to seats in the Assembly, has been established."

"We further find that every charge made by the majority of the committee is substantiated by the evidence contained in the statement made by the chairman of the Judiciary Committee, of the committee's understanding of the matters that are to be brought up for the consideration of the committee has likewise been established, and we therefore report our determination as follows:

"That Louis Waldman, August Claessens, Charles Solomon, Samuel A. deWitt and Samuel Orr, for the aforesaid reasons, are, and each of them is, not obedient to the Constitution and laws of the United States and the State of New York, nor desirous of the welfare of the country, nor in hearty accord and sympathy with its government and institutions, and for said reasons, and also because of them is, disqualified to occupy seats in the Assembly of the State of New York as members thereof;

"That because of such disqualification they were and each of them was incapable of taking the oath of office prescribed by the constitution of the state, according to the real intent and purpose of the constitutional provisions requiring the taking of such oath;

"That by formally subscribing to said oath their position, in view of their disqualification, is no different than it would have been had they refused to take the said oath;

"That they therefore are not entitled to have or to hold seats in the Assembly, and that the seats to which they are elected be declared vacant."

The report is a record of 2,000 printed pages and 600 documents.

The rule which we have adopted as the basis for our decision," it says, "is not only declared in well-considered parliamentary precedents, but is in harmony also with the understanding of the rule that should be applied, expressed in the early stages of this inquiry, by counsel for the five Assemblymen in the discussion of one of the charges contained in the resolution adopted by the Assembly. It was then conceded that if the conduct alleged in such charges were proved it would necessarily result in the exclusion from the Assembly of these five men."

"The statement of counsel (Morris Hillquit), indicating a clear understanding of the law and a correct analysis of the charges, is as follows:

"Your last charge I shall refer to. It is the only charge which I consider has any merits. You say: 'The Socialist party of America did urge upon its members in the streets and in the war, and did affirmatively urge them to refuse to engage even in the prosecution of the said war, and did thereby stamp the said party and all its members with an inimical attitude to the best interests of the United States and the State of New York.' That is a fairly definite statement of what the framers of this may have considered to be the truth. That is an issue we are quite willing to meet, and think it will be an issue they will regret they ever suggested, for we are very certain and positive no proof, no act of the declarations of the party, either in its more prominent councils or in its localities, will be found to verify or in the slightest degree that statement."

"If this party advocated and urged its members to refrain from taking part in the war in any shape or manner, they were affirmatively urged them to refuse to engage even in the production of munitions of war."

If that is proved against the party—and the members are members of it—we will have nothing to say except leave these chambers in humiliation."

"The provision in the Constitution of this state," the report of the Judiciary Committee declares, "that 'no other oath, declaration or test shall be required as a qualification for any office of public trust than the oath to support the Constitution of the United States and the Constitution of the State of New York,' does not deprive the Assembly of the constitutional power given by the same article and article to exclude disloyal persons from membership in this body."

"This constitutional provision was intended to be and is a prohibition upon the exacting of a test of religious, political or other qualifications extraneous in character to the essential qualifications for membership expressed in the rule which we have adopted. Any other interpretation would place an utterly indefensible interpretation upon the language of the Constitution, make it impossible for members of the Assembly, in passing up the qualifications for membership in this body, to discharge the obligation of their own oath to support the Constitution of the United States and the constitution of this state, and render this Assembly and the government of which it is a constituent part powerless to preserve itself. The Constitution cannot be distorted into a means of intruding in our legislative halls the foes of our government nor treated as a bombproof shelter from which the enemies of our country can launch their attacks."

"The plain purpose of the constitutional provision under consideration is to prohibit the requiring or imposing of a qualification in any way connected with eligibility or fitness for any office or public trust under this state. It was never intended as a declaration that the disloyal unit, if elected to the Legislature, must be accepted as members, nor to guarantee an indefensible title during term of office to a person in such body, to a member whose disloyalty or unfitness renders his membership therein a menace to the institution which the members of the Legislature are sworn to support and defend."

"The fallacy with which we are dealing is a fundamental one involving a basic contradiction in terms that it refutes itself."

"The rule adopted by this committee has a twofold application in this case: 'First—It applies to the group or party of men with which these Assemblymen are united by the solemn obligation of a pledge. If this group or party advocates and is committed to principles and policy that violate in essential particulars the rule stated above, membership therein, inasmuch as it involves acceptance of and adherence to such principles and policy, disqualifies from membership in this legislative body any individual member of that group laboring, by virtue of such membership, under a like disability."

"On this first proposition we are again in harmony with the views of counsel for these men."

"Second—The disqualification of any individual for reasons personal to himself of course disqualifies and renders him ineligible for a seat in the House quite apart from the consequences of membership in the party."

In connection with the second proposition, the report quotes from the testimony given at the inquiry by George H. Lunn, who said that the Socialist party, of which he was a member when elected Mayor of Schenectady, attempted to "discipline" him for not obeying its instructions as to his appointments."

"Since members of the Socialist party elected to office are no more than proxies for the dues-paying members of their locals," continues the report, "it is of interest to note that the dues-paying members compose a very small percentage of those voters who affiliate with the party and a still smaller percentage of those who vote for candidates of the Socialist party. The evidence shows that in the county of New York the present dues-paying membership of the party consists of 5,688 persons. Of these 3,833 are marked on the card records in the office of the secretary of the New York State Citizens, 987 are citizens, and in the case of 802 there is no record as to citizenship."

"It is apparent, therefore, that those who are elected to public office on the Socialist ticket are responsive to the domination and control of a very small group and that a substantial part of this group is composed of aliens."

War Attitude Reviewed
Considerable attention is given in the report to the attitude of the Socialist party toward the war and the events leading up to it. It mentions the fact that shortly after the sinking of the Lusitania the national committee of the party formulated a new section of the party's constitution, which was ratified by a vote of 11,041 to 782, providing that "any member of the Socialist party elected to an office who shall in any way vote to appropriate moneys for military or naval purposes or war shall be expelled from the party."

The report discusses portions of the evidence purporting to show that the Socialist party opposed prosecution of the war, opposed all proposed legislation for industrial and military conscription, pledged itself to work for the repeal of the conscription law, advised resistance to conscription of life and labor and urged the repudiation of war debts.

Policy of Obstruction Charged
"The Socialist party of America, controlled and dominated as aforesaid, is therefore an organization or group of men combined together for the purpose of hindering and obstructing the government of the United States, and the dues-paying members of this group, including the five Assemblymen, by their membership, activities and contributions of funds . . . were, and are, disloyal to this government, and these Assemblymen, for the aforesaid reasons, were disqualified from taking the constitutional oath of office on January 7, 1920."

"We are, therefore, confronted on this day and by virtue of these recent events and facts with the necessity of determining how we shall treat this group of persons now in control of the Socialist party of America and masquerading under its name as a political party, who are in the United States and who accept all the benefits of citizenship; who are the beneficiaries of our laws and institutions and the sacrifice of blood and treasure made for the perpetuation of our institutions, but refuse to support them; who take all they can get but will give nothing; who so far from defending and maintaining the government, which is their sole and only guarantor of life, liberty, property and the pursuit of happiness, declare that they will obstruct and resist the government in its maintenance of its duty of self-preservation."

Disloyalty Alleged
"The Socialist party of America, as now constituted with its present program, is not a loyal American organization or political party, disgraced occasionally by the traitorous act or declaration of a member, but is a disloyal organization composed exclusively of perpetual traitors. Therefore, the act of a member of that party in subscribing to the constitutional oath of office to support the Constitution of the United States and the Constitution of the State of New York should be utterly disregarded as patently sham and a mere cloak for treachery."

Assemblymen Solomon and Claessens, the latter the leader of the ousted delegation, arrived here to be on hand when the reports were filed.

Solomon was about to enter the chamber and take a seat among hundreds of strangers who sit immediately behind the circle when Harry Haines, the sergeant-at-arms, said:

"While the sergeant-at-arms was in Speaker Sweet's room one of the assistant sergeants-at-arms showed Solomon to one of a score of vacant chairs. Haines came back, announced that he could not get a ticket for Solomon, and politely asked him to make his departure."

Later Solomon characterized the Speaker's refusal to grant him permission to sit in the chamber on a par with his customary pettiness.

Commenting on the Judiciary Committee reports, Solomon said:

"The reports register a defeat for the Speaker. The members of the committee were all appointed by him and, with the exception of three, belong to his party. Yet he is able, after bringing heavy pressure to bear, to rally a bare majority. This, with the minor divisions within the committee, is in striking contrast to the unanimity of the Assembly in ousting the Socialists on January 7."

Sees Change of Views
"The haste with which the Assembly acted on the day of voting compares awkwardly with the tardiness of the committee in submitting reports."

"In view of the recent announcement by the Governor that he would call special elections in the five districts from which the Socialists were elected in the event their seats were declared vacant before April 1, are we to assume it is accidental that the date set for opening the discussion on the reports

of the committee is just the day preceding?"

If the vote is completed before midnight to-morrow the Governor may call special elections. If the vote is delayed beyond that time, the only way the Governor could call special elections would be to call a special session of the Legislature after the present session ended."

Socialist Aldermen Assert Ouster Will Be Brake on Progress
B. C. Viadeck, Alexander Braunstein and Abraham Shlipacoff, the Socialist members of the Board of Aldermen, issued the following statement last night concerning the recommendations of the Judiciary Committee of the Assembly to oust the five Socialist Assemblymen:

"We did not expect any other action from an Assembly nominated by a group of active manufacturers and long known enemies of labor. By voting to exclude legally elected representatives of the people from the State Legislature, the Assembly has initiated a policy which will retard for years the peaceful progress of this country, and which will encourage 'strong arm' men in politics to rob the people of their rights under the cloak of loyalty and patriotism."

"As for the Socialist party, nobody acquainted with its history in this country can think for a moment that this step will do anything but help the work of promoting Socialism and will open the eyes of the people to the real purpose of the old party politicians."

U. S. Intervenes to End Longshoremen's Strike
Southern Shippers and Rival Leaders Inspire Conference To Be Held in Washington
The Department of Labor took a hand yesterday in the longshoremen's strike, which has tied up shipping along the Atlantic coast for three weeks. Secretary of Labor Wilson called a conference of representatives of the coastwise steamship companies and the strikers for 10 o'clock Friday morning at Washington.

The announcement was made by Benjamin M. Squires, of the National Adjustment Commission, who said this effort on the part of the government to bring about a settlement was inspired by the appeals of the Southern vegetable and fruit growers and the leaders of both sides.

Complications have arisen over the use by the United Fruit Company of railroad boats in unloading their ships. As there is a strike at the piers of the company over a question of union recognition and higher pay, the port and terminal workers are refusing to handle railroad boats destined for use at the United Fruit Company's piers. A temporary truce has been effected and the matter is being thrashed out between officials of the strikers and the railroads. A decision is expected to-day. T. V. O'Connor, president of the International Longshoremen's Association, stated that unless the railroads ceased sending their boats to the fruit corporation longshoremen would be called off to handle craft, railroad or otherwise, that had any dealings with the company.

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A Bernard model introduces plaid worsted embroidery. Bound square scallops sponsored by Martial and Armand. Bernard combines beading with embroidery. Poiret affixes deep bands of gold thread to coats. Skirts are in straight and tunic modes, plain or lavish with embroidery.

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